

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

NOT FOR PUBLICATION

-----X

IN RE: HERMAN CARLEE McMILLIAN,

ORDER  
13-MC-67 (JG)

-----X

JOHN GLEESON, United States District Judge:

Herman Carlee McMillian, currently incarcerated at Sullivan Correctional Facility, is a frequent litigant in this district,<sup>1</sup> and by order dated September 1, 2005, I barred him from filing any *in forma pauperis* complaint unless he demonstrates that he is under imminent danger of serious physical injury. *See In re request for leave to file by Herman Carlee McMillian*, No. 05-MC-197 (JG), slip op. at 2 (E.D.N.Y. Sept. 1, 2005) (citing 28 U.S.C. § 1915(g)).

Now before me is McMillan's letter, received January 24, 2013, which appears to complain about conditions and treatment at two state correctional facilities in which he has been recently held. Specifically, the letter states that he "signed program refusal papers"; that inmates at Sullivan are "calling me a pedophile again" because the "[g]uards put [them] up to this"; and "they are holding back on the food any little thing the staff can do to Harass me they do it." His submission does not contain a complaint or a request to proceed *in forma pauperis*. I construe his letter as one which requests leave to file a *in forma pauperis* complaint pursuant to 42 U.S.C. § 1983 alleging unconstitutional prison conditions.

I deny plaintiff's request for leave to file a complaint. McMillian does not submit the necessary information to demonstrate that he is under imminent danger of serious physical injury. *See* 28 U.S.C. § 1915(g) (providing that a prisoner shall not bring a civil action that is "frivolous, malicious, or fails to state a claim" unless the prison is "under imminent danger of serious physical injury").

---

<sup>1</sup> Plaintiff has filed sixty-five actions in this court in the last ten years.

Accordingly, I dismiss the action. I certify pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

So ordered.

---

John Gleeson, U.S.D.J.

Dated: February 7, 2013  
Brooklyn, New York